Supreme Court, U.S.
FILED
JUL 24 1986
JOSEPH F. SPANIOL, JR.
CLERK

No. 85-1743

In The

# Supreme Court of the United States

October Term, 1985

TEAMSTERS LOCAL 317,

*Petitioner,*

-against-

CLINTON'S DITCH COOPERATIVE CO., INC. and NATIONAL LABOR RELATIONS BOARD,

*Respondents.*

## REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

BLITMAN AND KING

*Attorneys for Petitioner*
Office and Post Office Address
The 500 Building, Suite 1100
500 South Salina Street
Syracuse, New York 13202
Telephone: (315) 422-7111

Of Counsel:

James R. LaVaute*
Donald D. Oliver

* Counsel of Record

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In its Petition, Local 317 contended that the Court of Appeals ran afoul of important federal labor law policy and statutory strictures in concluding that the Union had waived the right to enforce a commitment by Clinton's Ditch to rehire the Local 317 drivers and continue their employment under Local 317 contract if Clinton's Ditch's arrangement with its contract trucker, Fairfield, terminated (Petition at 16-19).

Respondent Clinton's Ditch argued in response that: (1) the issue was not properly before this Court because it had been stricken from the Union's brief to the Court of Appeals, and (2) the issue of an enforceable agreement to rehire the drivers was a factual one that should not be reviewed by the Court (Respondent's Brief in Opposition at 5 and 25-28).

The National Labor Relations Board argued in response to the Petition that the issue of an enforceable agreement to rehire the Local 317 drivers was not "directly" decided by the Court of Appeals (Memorandum at 3 n.4).

Each of these arguments is without merit.

## I.

In its brief to the Second Circuit, the Union argued that the Board erred in failing to find a violation of Section 8(d) of the Act by Clinton's Ditch's abrogation of its 1975 commitment to the Union to continue the employment of the drivers, either directly or through another contract trucker, if the Fairfield arrangement ceased. Shortly before the scheduled June 17, 1984 oral argument of this case before the Court of Appeals, the NLRB on

June 10, 1985 filed a motion for an order striking that argument from the Union's brief to the Court of Appeals.[1] This motion was made notwithstanding the fact that decisional law in the Second Circuit expressly holds that, as an intervenor, the Union was entitled to "raise all relevant issues upon review" and would not be entitled to file its own petition for review. *NLRB v. General Electric Co.*, 358 F.2d 292, 294 (2d Cir.), *cert. denied*, 385 U.S. 898 (1966). The Union filed an affidavit in opposition to the motion to strike (RA-10), pointing this precedent out to the Court of Appeals. However, on June 13, 1985, presumably without having seen the Union's opposition papers, a single judge of the Court of Appeals, pursuant to F.R.A.P. Rule 27(c), granted the motion (RA-3). That order was filed June 13, 1985, the Thursday before the oral argument scheduled to be held on Monday, June 17, 1985.

Rule 27(c) of the Federal Rules of Appellate Procedure provides that the action of a single judge on such a motion "may be reviewed by the Court." At oral argument on June 17, 1985, the Union pointed out to the Court that there was Second Circuit precedent that upheld the right of the Union as intervenor to raise the argument in question, and that the Union was requesting the panel to reverse the action of the single judge in granting the motion to strike.

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[1]The Board's motion to strike is reproduced in the Appendix to this Reply Brief. RA-1 to RA-8. There will also be references in this Reply Brief to the Appendix to the Petition, designated as "A—".

At oral argument, the Court of Appeals indicated that it understood this application for review.[2] And, in its decision, the Court of Appeals expressly addressed on the merits the Union's argument that the Board erred in failing to find an enforceable agreement by Clinton's Ditch to rehire the drivers. The Court of Appeals stated:

> We recognize that when Fairfield first undertook the subcontract, Clinton's Ditch apparently informed the drivers that if the new arrangement did not work out, the truck drivers would continue to be Clinton's Ditch employees. (A-19).

But, the Court of Appeals ruled as a matter of law that the Union had waived its right to bind Clinton's Ditch to the commitment:

> Had the Union intended to bind Clinton's Ditch to its earlier oral assurance, or formally to extend the employer - employee relationship between Clinton's Ditch and the drivers, it should have tried to bring Clinton's Ditch to the bargaining table in 1978. . . . The earlier assurance, even coupled with the Union's refusal to release Clinton's Ditch from the 1975-78 bargaining agreement, lost its effect when the Union began dealing directly with Fairfield. (A-61).

Thus, the Court of Appeals expressly decided the merits of the Union's contention that Clinton's Ditch had violated the National Labor Relations Act by failing to honor its commitment to the Union to continue the driv-

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[2]The Court of Appeals has granted Local 317's motion (RA-14) for an Order allowing transcription of that part of oral argument at which the Union requested that the panel review the action of the single judge in striking the argument. The transcript will be included in a Supplemental Brief to the Court when it becomes available.

ers as employees of Clinton's Ditch. Although the Second Circuit did not expressly state that it was "reviewing" the action of the single judge in granting the motion to strike, a fair reading of its treatment of this issue is that it considered the argument on the merits and perforce reversed the earlier order striking the argument.

Accordingly, Clinton's Ditch's contention that the question of whether it violated the Act by failing to rehire the drivers pursuant to its oral agreement to do so was not before the Court of Appeals (Brief in Opposition at 26-27) is erroneous. Moreover, even if the question had not been presented to the Court of Appeals, it clearly was addressed by the court and is therefore subject to review by this Court.[3]

The issue of the enforceability of the oral agreement was "fairly included" in question presented No. 2 of the Petition, dealing with the Court of Appeals' conclusion that the Union had waived its rights. See Supreme Court Rule 21.[4]

II.

Both the Board (A-35, A-61) and the Court of Appeals (A-6, A-19) concluded as a factual matter that Clinton's Ditch had made a commitment to rehire the Local

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[3]*Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 146 n.2 (1970) ("where issues are neither raised before *nor considered* by the Court of Appeals, this Court will not ordinarily consider them." [emphasis supplied]).

[4]The second question presented by Petitioner was "Whether the Court of Appeals erred in finding a waiver of the right to bargain" by the Union. The waiver found was in the Union's right to enforce Clinton's Ditch's bargaining obligation by holding it to its commitment to rehire the drivers under Local 317's contract (A-19).

317 drivers if the arrangement with Fairfield was terminated. However, the Administrative Law Judge, affirmed by the Board, had concluded that notwithstanding the evidence, there was "no meeting of the minds" between the parties that Clinton's Ditch would rehire the drivers if Fairfield went out of business and thus, there was no enforceable contract to do so. And, as indicated above, the Court of Appeals, while recognizing that a commitment had been made, found that the Union had waived the right to enforce Clinton's Ditch's commitment to rehire the drivers.

Thus, in both cases, there was no factual question decided against the Union as to whether a commitment had been made. Rather, a legal issue was decided as to the enforceability under the National Labor Relations Act of that commitment. The Board's and the Court of Appeals' refusals to enforce the commitment conflict with decisional law eschewing such a technical approach to determining enforceable agreements under the federal labor law.

It has been recognized that technical contract notions such as "meeting of the minds" do not govern determinations of whether an enforceable labor contract exists.[5]

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[5]See, e.g., *Mine Workers Dist. 17 v. Allied Corp.*, 765 F.2d 412, 418 (4th Cir.), *cert. denied*, 105 S.Ct. 3527 (1985); *Pension Fund v. Southern Stress Wire Corp.*, 724 F.2d 1458, 1460 (11th Cir. 1983) ("federal courts have liberally applied contract law in determining whether an enforceable labor agreement exists."); *Pepsi-Cola Bottling Co. v. NLRB*, 659 F.2d 87 (8th Cir. 1981) ("it is well-established that technical rules of contract do not control whether a collective bargaining agreement has been reached", and "the common law rule that a rejection or counterproposal necessarily terminates the offer has little relevance in the col-

(Continued on following page)

Rather, an enforceable contract existed in Clinton's Ditch's promise to rehire the drivers and continue their employment under Local 317's contract, and Local 317's acceptance of that promise as inferred from its conduct following the making of the promise.[6]

In the instant case, Local 317 acted on Clinton's Ditch's commitment to rehire the drivers by refusing to release Clinton's Ditch from its obligations (A-36) and by dealing with Fairfield for a labor agreement on the premise that Clinton's Ditch had retained control of the terms of any labor agreement between the Union and Fairfield (A-35, A-46). There is nothing to indicate that there was any limitation in time to Clinton's Ditch's commitment to rehire the drivers if Fairfield terminated, and thus there is no reason to restrict that commitment, as the Court of Appeals did (Petition at A-19), to the time ending when the Union "began dealing directly with Fairfield." (A-61).[7] Enforcing Clinton's Ditch's commitment would effec-

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(Continued from previous page)

lective bargaining setting." *Id.* at 89). *See also Smith v. Kerrville Bus Co.*, 709 F.2d 914, 920 (5th Cir. 1983), where the court noted that "[i]t is well established that § 301 [29 U.S.C. § 185] must be broadly construed to encompass any agreement, written or unwritten, formal or informal, which functions to preserve harmonious relations between labor and management."

[6]*Capitol-Husting Co., Inc. v. NLRB*, 671 F.2d 237 (7th Cir. 1982). The court noted that "[a]ll that is required is conduct manifesting an intention to abide and be bound by the terms of an agreement." *Id.* at 243. In that case, although the union did not expressly accept the employer's offer to be bound by whatever contract was reached by the union with the employer's competitors, the union's actions thereafter constituted "acceptance" of the offer and the employer was held bound to honor its commitment.

[7]*See Id.* at 245, where the court noted that there was no type of contract duration condition attached to the offer.

tuate the federal policy of maintaining and promoting "industrial peace."[8]

III.

As the discussion of the Court of Appeals' opinion on this question illustrates, see pages 2-3, *supra*, the Board's contention that the issue of the commitment to rehire the drivers was "not directly decided" (Memorandum at 3 n.4) also is erroneous. Contrary to the Board, the Court of Appeals' discussion of the impact of the Union's failure to insist that Clinton's Ditch sign the collective bargaining agreement with Fairfield was addressed directly to the issue of whether the Union was in a position to enforce the earlier oral commitment to rehire the drivers. It was hardly "addressed largely to whether Clinton and Fairfield were joint employers" as the Board would claim (Memorandum at 3 n.4).

The Petition for Certiorari raises an important question concerning the enforceability of commitments between employers and unions that serve to stabilize bargaining relationships and preserve industrial peace. The Court of Appeals' refusal to enforce such a commitment here violates this Court's express mandate that a union waiver

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[8]*See Vaca v. Sipes*, 386 U.S. 171, 182 (1967). As the court stated in *Capitol-Hustings, supra* note 6, at 245, "[t]here may be no greater danger to stable and productive union-management relations than reneging on a contract."

of rights can only be found in clear and unmistakable conduct. The Union asks that the Petition be granted.

Respectfully submitted,

James R. LaVaute
Donald D. Oliver

Blitman and King
*Attorneys for Petitioner*
Office and Post Office Address
The 500 Building, Suite 1100
500 South Salina Street
Syracuse, New York 13202
(315) 422-7111

Dated: July 23, 1986

# APPENDIX TO REPLY BRIEF

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Second Circuit Rule 27(a) governing use of this form is reprinted on reverse of Page 2. Note requirement that supporting affidavits be attached.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket Number 85-4043(L); 85-4051

Clinton's Ditch Cooperative Co., Inc.,

Petitioner-Cross-Respondent,

v.

National Labor Relations Board,

Respondent-Cross-Petitioner.

NOTICE OF MOTION

(Filed June 10, 1985)

state type of motion
for to strike part of the brief of the Intervenor

MOTION BY: (*Name and tel. no. of law firm and of attorney in charge of case*)

National Labor Relations Board
1717 Penn. Ave., N.W.
Washington, D.C. 20570
Mark S. McCarty 202-254-6216

OPPOSING COUNSEL: (*Name and tel. no. of law firm and of attorney in charge of case*)

Blitman and King
500 South Salina St.
Syracuse, N.Y. 13202
James R. LaVaute 315-422-7111

Has consent of opposing counsel:

A. Been sought? ☐Yes XNo

B. Been obtained? ☐Yes XNo

*Notice of Motion to Strike Part of Local 317's Brief*

Has service been effected? XYes ☐No

Is oral argument desired? ☐Yes XNo
(*Substantive motions only*)

Requested return date:
(*See Second Circuit Rule 27(b)*)

Has argument date of appeal been set:

A. by scheduling order? ☐Yes ☐No

B. by firm date of argument notice? XYes ☐No

C. If Yes, enter date: June 17, 1985

Judge or agency whose order is being appealed:

National Labor Relations Board

EMERGENCY MOTIONS, MOTIONS FOR STAYS & INJUNCTIONS PENDING APPEAL

Has request for relief been made below? ☐Yes ☐No
(*See F.R.A.P. Rule 8*)

Would expedited appeal eliminate need for this motion? ☐Yes ☐No

If No, explain why not:

Will the parties agree to maintain the status quo until the motion is heard? ☐Yes ☐No

Brief statement of the relief requested:

An order striking part of the Intervenor's brief.

Complete Page 2 of This Form

By: (*Signature of attorney*)

Signed name must be printed beneath

/s/ Mark S. McCarty

*Notice of Motion to Strike Part of Local 317's Brief*

Appearing for: (*Name of party*)

National Labor Relations Board

Date June 6, 1985

Appellant or Petitioner:

☐Plaintiff ☐Defendant

Appellee or Respondent:

☐Plaintiff ☐Defendant

—ORDER—

*Kindly leave this space blank*

IT IS HEREBY ORDERED that the motion be and it hereby is granted June 13, 1985.

/s/ George C. Pratt

PAGE 2

Previous requests for similar relief and disposition: none

Statement of the issue(s) presented by this motion:

Whether part of the Respondent-Intervenor's brief should be stricken since it challenges part of the Board's findings in this case and the Intervenor has not filed a petition to review the Board's findings.

Brief statement of the facts (*with page references to the moving papers*):

On pages 44 and 45 of its brief, the Respondent-Intervenor challenges the Board's finding that Clinton's Ditch did not violate Section 8(d) of the Act. The Intervenor has not filed a petition to review that, or any other section, of the Board's findings and order in this case. This Court, on April 3, 1985, granted the Union's motion to intervene on the basis that it was the successful and charging party

in the underlying proceedings before the Board and not on the basis that it was a person aggrieved by the Board's order. Here, the Intervenor has not filed a petition to review any part of the Board's order, its motion to intervene was granted on the basis that it was a successful party before the Board, and accordingly, its challenge to part of the Board's findings is improperly raised before the Court.

Summary of the argument (*with page references to the moving papers*):

A successful, charging party is "granted leave to intervene with regard to the portion of the order on which the Board found in [its] favor." *United Automobile Workers v. Scofield,* 382 U.S. 205, 210 (1965). However, as to that portion of a Board order dismissing part of the General Counsel's complaint, the charging party is a "person aggrieved" under the Act, and as such, pursuant to Section 10(f) of the Act (29 USC 160(f)), has a statutory right to seek review in an appropriate court of appeals by filing a petition to review that portion of the Board's order. See *United Automobile Workers v. Scofield,* 382 U.S. 205, 210 (1965).

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Nos. 85-4043 (L)
85-4051

CLINTON'S DITCH COOPERATIVE CO., INC.,

Petitioner-Cross-Respondent,

v.

NATIONAL LABOR RELATIONS BOARD,

Respondent-Cross-Petitioner,

and

TEAMSTERS LOCAL 317, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA,

Intervenor.

## MOTION OF THE NATIONAL LABOR RELATIONS BOARD TO STRIKE PART OF THE INTERVENOR'S BRIEF

To the Honorable, the Judges of the United States Court of Appeals for the Second Circuit:

The National Labor Relations Board, by its Deputy Associate General Counsel, respectfully requests this Court to strike a portion of the brief of the Intervenor. In support of its motion, the Board shows:

1. The United Brotherhood of Teamsters, Chauffers, Warehousemen, and Helpers of America, Local Union No. 317 ("the Union") was the charging party before the National Labor Relations Board ("the Board") in the underlying proceedings in this case.

*Motion to Strike Part of Local 317's Brief*

2. On February 28, 1985, the Board issued a Decision and Order finding that the charged party, Clinton's Ditch Cooperative Co., Inc. ("Clinton's Ditch") had violated Section 8(a)(5) and (1) of the National Labor Relations Act, as amended (29 U.S.C. 151, *et seq.*).

3. On March 13, 1985, Clinton's Ditch, as a person aggrieved by this final order of the Board, pursuant to Section 10(e) and 10(f) of the Act (29 U.S.C. 160(e) and (f)), filed with this Court a petition to review and set aside the Board's order.

4. By motion dated March 27, 1985, the Union requested that the Court grant it leave to intervene in this case on the basis that it was the charging party and the successful party before the Board.

5. On April 3, 1985, this Court granted the Union's motion to intervene.

6. On April 16, 1985, the Board filed its cross-application for enforcement of its order against Clinton's Ditch pursuant to Section 10(e) and 10(f) of the Act (29 U.S.C. 160(e) and (f)).

7. The Union, as an intervenor, filed a brief with this Court dated May 17, 1985. On pages 44 to 45 of this brief, the Union argues that the Board erred by failing to find that Clinton's Ditch violated Section 8(d) of the Act (29 U.S.C. 158(d)) by unilaterally changing the terms and conditions of the drivers' employment during the existence of a collective bargaining agreement and by reneging on its commitment to the Union to retain the drivers if its arrangement with Fairfield Transportation Corp. terminated.

*Motion to Strike Part of Local 317's Brief*

8. The Union's attack on the Board's decision that Clinton's Ditch did not violate Section 8(d) of the Act is an improper subject to be raised in its brief as an intervenor. The Union's request to intervene in this case was based on its status as the "successful" charging party in the underlying proceedings before the Board. As such, this Court, as well as other courts of appeal, have "invariably . . . granted leave to intervene *with regard to the portion of the order on which the Board found in* [*it*]*s favor.*" *United Automobile Workers v. Scofield*, 382 U.S. 205, 210 (1965) (emphasis added). However, as to that portion of a Board order dismissing part of the General Counsel's complaint, the charging party is a "person aggrieved" under the Act, and as such, pursuant to Section 10(f) of the Act (29 U.S.C. 160(f)), had a statutory right to seek review in an appropriate Court of Appeals by filing a petition to review that portion of the Board's order. See *United Automobile Workers v. Scofield*, 382 U.S. 205, 210 (1965).

9. In sum, it is inappropriate for the Union to raise this issue as a respondent-intervenor, in the case against Clinton's Ditch. It is also inappropriate at this point in the proceeding for the Union to raise an issue that should have been raised by filing a petition for review and putting the Board on notice as to this objection.

WHEREFORE, the Board respectfully requests that the Court grant its motion and strike those sections of pages 44 and 45 of the Intervenor's brief which challenge the Board's decision that Clinton's Ditch did not violate Section 8(d) of the Act (29 U.S.C. 158(d)).

*Motion to Strike Part of Local 317's Brief*

/s/ Elliott Moore (by MJM)
Deputy Associate General Counsel
NATIONAL LABOR RELATIONS
BOARD

Dated: Washington, D. C.
June 6, 1985

*Local 317's Affidavit in Opposition to Motion to Srike Part of Intervenor's Brief*

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

DOCKET NOS. 85-4043 (L) & 85-4051
CLINTONS DITCH COOPERATIVE INC V NLRB

AFFIDAVIT IN OPPOSITION TO RESPONDENT'S MOTION TO STRIKE PART OF THE BRIEF OF THE INTERVENOR

STATE OF NEW YORK )
) ss.:
COUNTY OF ONONDAGA )

JAMES R. LA VAUTE, being duly sworn, deposes and says:

1. I am a member of the law firm of Blitman and King, attorneys for Teamsters Local No. 317 (hereinafter "Teamsters 317"), Intervenor in the above-referenced matter. I am fully familiar with the facts set forth in this Affidavit in Opposition of Respondent's Motion to Strike Part of the Brief of the Intervenor.

2. Teamsters 317 was the successful Charging Party before the National Labor Relations Board (hereinafter "the Board") in the underlying proceeding.

3. On February 28, 1985, the Board issued a Decision and Order finding that the Charged Party, Clinton's Ditch Cooperative Co., Inc. (hereinafter "Clinton's Ditch") had violated Section 8(a)(5) and (1) of the National Labor Relations Act, as amended (29 U.S.C. § 151, *et seq.*).

4. On March 13, 1985, Clinton's Ditch filed a Petition to review and set aside the Board's Order with this Court.

*Local 317's Affidavit in Opposition to Motion to Srike Part of Intervenor's Brief*

5. On April 3, 1985, this Court granted Teamsters 317's motion to intervene in this proceeding.

6. On May 17, 1985, Teamsters 317, as an intervenor, filed a Brief with this Court arguing all relevant issues, including not only arguments supporting the Board's decision and order but also arguing that the Board erred in failing to find that Clinton's Ditch violated Section 8(d) of the Act (29 U.S.C. 158(d) by unilaterally terminating the drivers' employment.

7. On June 8, 1985, Intervenor was served with a motion to strike part of its Brief brought by the Respondent Board. Said motion is based upon the Board's contention that a successful Charging Party may not address issues outside that portion of the Order on which the Board found in its favor.

8. However, this Court has refused to limit the scope of an intervenor's argument and permits an intervenor to "raise all relevant issues upon review . . . ." *NLRB v. General Electric Co.*, 358 F. 2d 292, 61 LRRM 2609 (2nd Cir.), *cert, denied,* — U.S. —, 63 LRRM 2282 (1966). Thus, this court in *General Electric* dismissed the Union's petition to review on the ground that the Union would be "permitted as intervenor to raise all relevant issues upon review. . . ." *Id.* at —, 61 LRRM at 6210. It is noted that *General Electric* was decided after *Automobile Workers v. Scofield,* 382 U.S. 205 (1965), relied on by the Board in its motion to strike.

9. In sum, Intervenor has properly raised and addressed all relevant issues in its Brief to this Court, in-

cluding the issue raised on pages 44 and 45 of the Brief with respect to the Board's failure to find a violation of Section 8(d) of the Act.

WHEREFORE, Intervenor respectfully requests that the Court deny Respondent's motion to strike certain sections of pages 44 and 45 of Intervenor's Brief which challenge the Board's Decision insofar as the Board failed to find a Section 8(d) violation.

/s/ James R. La Vaute

*Local 317's Motion for Permission to Transcribe a Part of Oral Argument*

T1080 10/82

Second Circuit Rule 27(a) governing use of this form is reprinted on reverse of Page 2. Note requirement that supporting affidavits be attached.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket Number 85-4043(L); 85-4051

CLINTON'S DITCH COOPERATIVE CO., INC.,

Petitioner-Cross-Respondent,

vs.

NATIONAL LABOR RELATIONS BOARD,

Respondent-Cross-Petitioner.

NOTICE OF MOTION

(Filed June 11, 1986)

state type of motion
To Transcribe Oral Argument

MOTION BY: (Name, address and tel. no. of law firm and of attorney in charge of case)

BLITMAN AND KING, James R. LaVaute,
The 500 Building, Suite 1100
500 South Salina Street
Syracuse, New York 13202
Telephone: (315) 422-7111

*Local 317's Motion for Permission to Transcribe a Part of Oral Argument*

OPPOSING COUNSEL: *(Name, address and tel. no. of law firm and of attorney in charge of case)*

NATIONAL LABOR RELATIONS BOARD
Mark S. McCarty, Esq.
Telephone: (315) 254-9062

Petitioner-Cross-Respondent:

CLIFTON, BUDD, BURKE & DE MARIA,
Thomas W. Budd, Esq. (212) 687-7410

Has consent of opposing counsel:

| | | |
|---|---|---|
| A. been sought? | X Yes | ☐ No |
| B. been obtained? McCarty, yes; Budd, no | ☐ Yes | ☐ No |
| Has service been effected | X Yes | ☐ No |
| Is oral argument desired? (*Substantive motions only*) | ☐ Yes | ☐ No |

Requested return date:
(*See Second Circuit Rule 27(b)*)

Has argument date of appeal been set:

| | | |
|---|---|---|
| A. by scheduling order? | ☐ Yes | ☐ No |
| B. by firm date of argument notice? | X Yes | ☐ No |

C. If yes, enter date: Argument held June 17, 1985

EMERGENCY MOTIONS, MOTIONS FOR STAYS & INJUNCTIONS PENDING APPEAL

| | | |
|---|---|---|
| Has request for relief been made below? (*See F.R.A.P. Rule 8*) | ☐ Yes | ☐ No |
| Would expedited appeal eliminate need for this motion? | ☐ Yes | ☐ No |

*Local 317's Motion for Permission to Transcribe a Part of Oral Argument*

If No, explain why not:

Will the parties agree to maintain the status quo until the motion is heard? ☐ Yes ☐ No

Judge or agency whose order is being appealed:

NATIONAL LABOR RELATIONS BOARD

Brief statement of the relief requested: An Order granting permission for Intervenor Teamsters Local 317 to transcribe the text of the June 17, 1985 oral argument by Intervenor's Counsel James R. LaVaute, Esq., or alternatively, the entire oral argument of that date, for use as Appendix to Brief to United States Supreme Court in the same proceeding.

Complete Page 2 of This Form

By: (*Signature of attorney*)

/s/ James R. LaVaute
Signed name must be printed beneath

JAMES R. LA VAUTE, ESQ.

Appearing for: (*Name of party*)
TEAMSTERS LOCAL 317

Date
July 10, 1986

Appellant or Petitioner:

☐ Plaintiff ☐ Defendant

Appellee or Respondent:

☐ Plaintiff ☐ Defendant

ORDER

*Kindly leave this space blank*

IT IS HEREBY ORDERED that the motion be and it hereby is granted July 14, 1986

/s/ Vincent Flanagan
Chief Deputy Clerk